

REMARKS UNDER 37 CFR § 1.111

Formal Matters

Claims 15-37 are pending after entry of the amendments set forth herein.

Claims 15-37 were examined. Claims 15-37 were rejected.

Applicants respectfully request reconsideration of the application in view of the amendments and remarks made herein.

No new matter has been added.

The Telephone Interview

Applicants wish to extend their appreciation to the Examiner for the courtesy provided to Applicants' representative during the telephone interview of September 6, 2007. During the Interview, it was agreed that amendment of claims 15 and 27 as above would overcome the rejections and prior art of record.

This account is believed to be a complete and accurate summary of the interview as required by 37 C.F.R. § 1.133. If the Examiner believes that this summary is inaccurate or incomplete, Applicants respectfully request that the Examiner point out any deficiencies in her next communication so that Applicants can amend or supplement the interview summary.

The Office Action

Claims Rejected Under 35 U.S.C. Section 102(b) (ScanAlyze)

In the Official Action of July 9, 2007, claims 15, 18, 24-33 and 37 were rejected under 35 U.S.C. Section 102(b) as being anticipated by the ScanAlyze User Manual. The Examiner asserted, inter alia, that ScanAlyze provides flagging, wherein a user can arbitrarily choose one or more characteristics from a plurality of characteristic provided, so that spots are flagged in bold outlines. The Examiner posited that the user could choose one or more characteristics, resulting in a first set of bold outlines being

superimposed over the image, and then choose a different one or more of these characteristics, resulting in a second set of bold outlines being superimposed over the array image.

Applicants respectfully traverse this interpretation. Claims 15 and 27, prior to the above amendments thereof, recited that at least two different characteristics were represented by distinct graphical objects on the displayed image of the molecular array. Accordingly, it is respectfully submitted that the graphically distinct objects were recited as being displayed on the same displayed image. The Examiner's scenario refers to displaying outlines on two successive displays of the image, and it is respectfully submitted that this does not anticipate the language referred to above.

However, in order to clarify this distinction, Applicants have amended claims 15 and 27 above, in a manner that the Examiner has agreed overcomes ScanAlyze as well as the other art of record. The amended claims 15 and 27 clarify that the graphically distinct objects are simultaneously displayed on the image. Support for the above amendments can be found, for example in Figs. 9-18 and the description thereof.

It is further respectfully submitted that the flags of ScanAlyze are not positioned over the locations of the characteristics where they occur, since all flags are apparently placed in the same relative locations, and all characteristics that can be flagged for are not originating in the same locations.

In view of the above amendments and remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 15, 18, 24-33 and 37 under 35 U.S.C. Section 102(b) as being anticipated by the ScanAlyze User Manual, as being clearly inappropriate.

Claims Rejected Under 35 U.S.C. Section 103(a) (ScanAlyze in view of Bassett, Jr. et al. and Malamud et al.)

Claims 16-17 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over the ScanAlyze User Manual in view of Bassett, Jr. et al., U.S. Patent No. 6,453,251 and Malamud et al., U.S. Patent No. 6,437,800. It is respectfully submitted that these claims are allowable for at least the same reasons provided above in regard to the rejection of claim 15 as being anticipated by ScanAlyze, as neither Bassett, Jr. et al. nor Malamud et al. makes up for the deficiencies of ScanAlyze in meeting the recitations of claim 15, and for the reasons provided in previous responses to previous Office Actions in this case.

Accordingly, in view of the above remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 16-17 under 35 U.S.C. Section 103(a) as being unpatentable over

the ScanAlyze User Manual in view of Bassett, Jr. et al., U.S. Patent No. 6,453,251 and Malamud et al., U.S. Patent No. 6,437,800, as being inappropriate.

Claims Rejected Under 35 U.S.C. Section 103(a) (ScanAlyze in view of Buhler et al.)

Claims 19-23 and 36 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over the ScanAlyze User Manual in view of Buhler et al., Dapple: Improved Techniques for Finding Spots on DNA Microarrays”.

Applicants repeat the same traversal here that was applied above in the rejection of claims 15, 18, 24-33 and 37 as being anticipated by ScanAlyze, since Buhler et al. does nothing to make up for the deficiencies of ScanAlyze in meeting all of the recitations of claims 15 and 27 and since each of claims 19-23 and 36 depends from one of claims 15 and 17.

Further, it is respectfully submitted that Buhler et al. does not teach marking spots using a plurality of distinct graphical objects to indicate valid features, invalid feature and intermediate quality features, contrary to the Examiner’s assertion. The Examiner referred to section 3.3 on page 5 of Buhler et al. to support his assertion. Section 3.3 on page 5 of Buhler et al. describes classification of spots by quality, but Applicants were unable to find disclosure of “using a plurality of distinct graphical objects to indicate valid features, invalid feature and intermediate quality features”.

Accordingly, in view of the above remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 19-23 and 36 under 35 U.S.C. Section 103(a) as being unpatentable over the ScanAlyze User Manual in view of Buhler et al., Dapple: Improved Techniques for Finding Spots on DNA Microarrays”, as being inappropriate.

Conclusion

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-1078, order number 10010327-1.

Respectfully submitted,

Date: _____

10/9/07

By: _____



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